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**HOUSE BILL 2327**

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**State of Washington**

**68th Legislature**

**2024 Regular Session**

**By** Representatives Gregerson, Ryu, Davis, Doglio, Cortes, Macri, Ramel, and Ormsby

Read first time 01/12/24. Referred to Committee on Finance.

1 AN ACT Relating to providing a revenue stream to fund digital  
2 equity programs; amending RCW 82.32.145 and 80.36.710; adding a new  
3 section to chapter 82.08 RCW; adding a new section to chapter 28A.650  
4 RCW; adding a new chapter to Title 82 RCW; creating a new section;  
5 prescribing penalties; providing an effective date; and providing an  
6 expiration date.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8 NEW SECTION. **Sec. 1.** INTENT. The legislature finds that many  
9 Washingtonians do not have access to adequate and affordable internet  
10 or internet-connected devices, making them unable to participate  
11 fully online. The legislature finds that connectivity to the internet  
12 enables residents to access school, work, job training, elder care  
13 and family connections, faith programs, health care, farming  
14 resources, civic participation, and much more. The legislature finds  
15 that this digital inequity affects communities all over the state,  
16 including rural, urban, and suburban areas, and on tribal lands.

17 The legislature finds that over 1,200,000 Washingtonians qualify  
18 for the affordable connectivity program operated by the federal  
19 communications commission, which subsidizes internet service and  
20 digital devices, and 330,000 have utilized this program as of  
21 December 2023. However, the legislature finds that future federal

1 funding for the program is uncertain. The legislature finds that  
2 225,000 households in Washington earn more than the income cutoff for  
3 the affordable connectivity program, but not enough to cover average  
4 living expenses according to the federal self-sufficiency standard  
5 developed by the University of Washington.

6 The legislature finds that state agencies need funding to adapt  
7 their programs to include digital access and adoption. The  
8 legislature further finds that there is a need to fund community-  
9 based organizations and to build public private partnerships to reach  
10 customers who qualify for subsidies and digital skill building.

11 NEW SECTION. **Sec. 2.** DEFINITIONS. The definitions in this  
12 section apply throughout this chapter unless the context clearly  
13 requires otherwise.

14 (1) "Buyer" has the same meaning as in RCW 82.08.010.

15 (2) (a) "Retail sale" has the same meaning as in RCW 82.04.050.

16 (b) "Retail sale" also means the transfer of a smart wireless  
17 device to a buyer that is partially or fully discounted by the seller  
18 in exchange for the buyer purchasing other products or services  
19 furnished in connection with the smart wireless device.

20 (3) "Seller" has the same meaning as in RCW 82.08.010.

21 (4) (a) "Selling price" has the same meaning as in RCW 82.08.010.

22 (b) "Selling price" also means:

23 (i) In the case of a smart wireless device that is sold to the  
24 buyer under conditions where the selling price does not represent the  
25 true value of the smart wireless device and is sold together with  
26 other products or services for one nonitemized price, the retail  
27 selling price of the same product or similar products of like quality  
28 and character, sold in an arm's length transaction; and

29 (ii) In the case of installment sales of a smart wireless device,  
30 the total aggregate consideration to be paid by the buyer to the  
31 seller for the smart wireless device.

32 (5) "Smart wireless device" means any type of instrument, device,  
33 machine, or equipment that is capable of wireless access to the  
34 internet. This includes, but is not limited to, smart phones, laptop  
35 computers, tablets, wearable devices, smart speakers, gaming  
36 consoles, smart gyms, and smart televisions.

37 NEW SECTION. **Sec. 3.** WIRELESS DEVICE TAX. (1) There is levied  
38 and collected a tax on each retail sale in this state of a smart

1 wireless device. The amount of the tax is \$2 for a device with a  
2 selling price of more than \$250.

3 (2) The revenue collected under this section must be deposited in  
4 the learning device and technology account created in section 9 of  
5 this act.

6 NEW SECTION. **Sec. 4.** PAYMENT OF TAX. (1) The tax imposed in  
7 this chapter must be paid by the buyer to the seller. Each seller  
8 must collect from the buyer the full amount of the tax payable with  
9 respect to each taxable sale.

10 (2) The tax required by this chapter, to be collected by the  
11 seller, is held in trust by the seller until paid to the department.  
12 Any seller who appropriates or converts the tax collected to the  
13 seller's own use or to any use other than the payment of the tax to  
14 the extent that the money required to be collected is not available  
15 for payment on the due date as prescribed in this chapter is guilty  
16 of a gross misdemeanor.

17 (3) If any seller fails to collect the tax imposed in this  
18 chapter or, having collected the tax, fails to pay it to the  
19 department in the manner prescribed by this chapter, whether such  
20 failure is the result of the seller's own acts or the result of acts  
21 or conditions beyond the seller's control, the seller is,  
22 nevertheless, personally liable to the state for the amount of the  
23 tax.

24 (4) The tax required by this chapter to be collected by the  
25 seller must be stated separately from the selling price in any sales  
26 invoice or other instrument of sale.

27 NEW SECTION. **Sec. 5.** ADMINISTRATION. Chapter 82.32 RCW applies  
28 to the administration of this chapter.

29 NEW SECTION. **Sec. 6.** A new section is added to chapter 82.08  
30 RCW to read as follows:

31 QUARTERLY TRANSFER. (1) Beginning January 1, 2025, at the  
32 beginning of each quarter, the treasurer shall transfer 50 percent of  
33 all revenues collected under this chapter on the sale of smart  
34 wireless devices to the learning device and technology account  
35 created in section 9 of this act.

36 (2) At least 30 days prior to the start of each new quarter, the  
37 department shall notify the treasurer of the amount of sales tax

1 revenues to be transferred from the state general fund to the  
2 learning device and technology account.

3 (3) For the purposes of this section, "smart wireless device" has  
4 the same meaning as in section 2 of this act.

5 **Sec. 7.** RCW 82.32.145 and 2020 c 301 s 6 are each amended to  
6 read as follows:

7 (1) Whenever the department has issued a warrant under RCW  
8 82.32.210 for the collection of unpaid trust fund taxes from a  
9 limited liability business entity and that business entity has been  
10 terminated, dissolved, or abandoned, or is insolvent, the department  
11 may pursue collection of the entity's unpaid trust fund taxes,  
12 including penalties and interest on those taxes, against any or all  
13 of the responsible individuals. For purposes of this subsection,  
14 "insolvent" means the condition that results when the sum of the  
15 entity's debts exceeds the fair market value of its assets. The  
16 department may presume that an entity is insolvent if the entity  
17 refuses to disclose to the department the nature of its assets and  
18 liabilities.

19 (2) Personal liability under this section may be imposed for  
20 state and local trust fund taxes.

21 (3)(a) For a responsible individual who is the current or a  
22 former chief executive or chief financial officer, liability under  
23 this section applies regardless of fault or whether the individual  
24 was or should have been aware of the unpaid trust fund tax liability  
25 of the limited liability business entity.

26 (b) For any other responsible individual, liability under this  
27 section applies only if he or she willfully fails to pay or to cause  
28 to be paid to the department the trust fund taxes due from the  
29 limited liability business entity.

30 (4)(a) Except as provided in this subsection (4)(a), a  
31 responsible individual who is the current or a former chief executive  
32 or chief financial officer is liable under this section only for  
33 trust fund tax liability accrued during the period that he or she was  
34 the chief executive or chief financial officer. However, if the  
35 responsible individual had the responsibility or duty to remit  
36 payment of the limited liability business entity's trust fund taxes  
37 to the department during any period of time that the person was not  
38 the chief executive or chief financial officer, that individual is  
39 also liable for trust fund tax liability that became due during the

1 period that he or she had the duty to remit payment of the limited  
2 liability business entity's taxes to the department but was not the  
3 chief executive or chief financial officer.

4 (b) All other responsible individuals are liable under this  
5 section only for trust fund tax liability that became due during the  
6 period he or she had the responsibility or duty to remit payment of  
7 the limited liability business entity's taxes to the department.

8 (5) Persons described in subsection (3)(b) of this section are  
9 exempt from liability under this section in situations where  
10 nonpayment of the limited liability business entity's trust fund  
11 taxes is due to reasons beyond their control as determined by the  
12 department by rule.

13 (6) Any person having been issued a notice of assessment under  
14 this section is entitled to the appeal procedures under RCW  
15 82.32.160, 82.32.170, 82.32.180, 82.32.190, and 82.32.200.

16 (7) This section does not relieve the limited liability business  
17 entity of its trust fund tax liability or otherwise impair other tax  
18 collection remedies afforded by law.

19 (8) Collection authority and procedures prescribed in this  
20 chapter apply to collections under this section.

21 (9) The definitions in this subsection apply throughout this  
22 section unless the context clearly requires otherwise.

23 (a) "Chief executive" means: The president of a corporation; or  
24 for other entities or organizations other than corporations or if the  
25 corporation does not have a president as one of its officers, the  
26 highest ranking executive manager or administrator in charge of the  
27 management of the company or organization.

28 (b) "Chief financial officer" means: The treasurer of a  
29 corporation; or for entities or organizations other than corporations  
30 or if a corporation does not have a treasurer as one of its officers,  
31 the highest senior manager who is responsible for overseeing the  
32 financial activities of the entire company or organization.

33 (c) "Limited liability business entity" means a type of business  
34 entity that generally shields its owners from personal liability for  
35 the debts, obligations, and liabilities of the entity, or a business  
36 entity that is managed or owned in whole or in part by an entity that  
37 generally shields its owners from personal liability for the debts,  
38 obligations, and liabilities of the entity. Limited liability  
39 business entities include corporations, limited liability companies,  
40 limited liability partnerships, trusts, general partnerships and

1 joint ventures in which one or more of the partners or parties are  
2 also limited liability business entities, and limited partnerships in  
3 which one or more of the general partners are also limited liability  
4 business entities.

5 (d) "Manager" has the same meaning as in RCW 25.15.006.

6 (e) "Member" has the same meaning as in RCW 25.15.006, except  
7 that the term only includes members of member-managed limited  
8 liability companies.

9 (f) "Officer" means any officer or assistant officer of a  
10 corporation, including the president, vice president, secretary, and  
11 treasurer.

12 (g)(i) "Responsible individual" includes any current or former  
13 officer, manager, member, partner, or trustee of a limited liability  
14 business entity with an unpaid tax warrant issued by the department.

15 (ii) "Responsible individual" also includes any current or former  
16 employee or other individual, but only if the individual had the  
17 responsibility or duty to remit payment of the limited liability  
18 business entity's unpaid trust fund tax liability reflected in a tax  
19 warrant issued by the department.

20 (iii) Whenever any taxpayer has one or more limited liability  
21 business entities as a member, manager, or partner, "responsible  
22 individual" also includes any current and former officers, members,  
23 or managers of the limited liability business entity or entities or  
24 of any other limited liability business entity involved directly in  
25 the management of the taxpayer. For purposes of this subsection  
26 (9)(g)(iii), "taxpayer" means a limited liability business entity  
27 with an unpaid tax warrant issued against it by the department.

28 (h) "Trust fund taxes" means taxes collected from purchasers and  
29 held in trust under RCW 82.08.050, including taxes imposed under RCW  
30 82.08.020, 82.08.150, ~~((and))~~ 82.51.010, and section 3 of this act  
31 and donations made under section 8 of this act.

32 (i) "Willfully fails to pay or to cause to be paid" means that  
33 the failure was the result of an intentional, conscious, and  
34 voluntary course of action.

35 NEW SECTION. **Sec. 8.** DONATIONS. (1) Beginning January 1, 2025,  
36 a radio communications service company must include along with, or as  
37 part of, its regular subscriber billings a request for voluntary  
38 contributions to the state digital equity account created in RCW  
39 80.36.710.

1 (a) The request for voluntary contributions must be included in  
2 regular billings for each radio access line for subscribers whose  
3 place of primary use is located in the state.

4 (b) The radio communications service company must establish a  
5 process to collect the voluntary contributions and transmit them to  
6 the department.

7 (c) All funds received by a radio communications service company  
8 in response to such requests shall be transmitted to the department.

9 (2) Beginning January 1, 2025, a local exchange company must  
10 include along with, or as part of, its regular subscriber billings a  
11 request for voluntary contributions to the state digital equity  
12 account created in RCW 80.36.710.

13 (a) The request for voluntary contributions must be included in  
14 regular billings for each switched access line whose place of primary  
15 use is located in the state.

16 (b) The local exchange company must establish a process to  
17 collect the voluntary contributions and transmit them to the  
18 department.

19 (c) All funds received by a local exchange company in response to  
20 such requests shall be transmitted to the department.

21 (3) By January 1, 2025, an interconnected voice over internet  
22 protocol service company must include along with, or as part of, its  
23 regular subscriber billings a request for voluntary contributions to  
24 the state digital equity account created in RCW 80.36.710.

25 (a) The request for voluntary contributions must be included in  
26 regular billings for each interconnected voice over internet protocol  
27 service line whose place of primary use is located in the state.

28 (b) The interconnected voice over internet protocol service  
29 company must establish a process to collect the voluntary  
30 contributions and transmit them to the department.

31 (c) All funds received by an interconnected voice over internet  
32 protocol service company in response to such requests shall be  
33 transmitted to the department.

34 (4) The department must establish a process for voluntary  
35 contributions collected pursuant to this section to be transmitted to  
36 the department. All funds transmitted to the department as voluntary  
37 contributions pursuant to this section must be deposited into the  
38 digital equity account created in RCW 80.36.710.

39 (5) The following definitions apply throughout this section  
40 unless the context clearly requires otherwise.

1 (a) "Interconnected voice over internet protocol service" has the  
2 same meaning as provided by the federal communications commission in  
3 47 C.F.R. Sec. 9.3 on January 1, 2009, or a subsequent date  
4 determined by the department.

5 (b) "Interconnected voice over internet protocol service line"  
6 means an interconnected voice over internet protocol service that  
7 offers an active telephone number or successor dialing protocol  
8 assigned by a voice over internet protocol service provider to a  
9 voice over internet protocol service customer that has inbound and  
10 outbound calling capability, which can directly access a public  
11 safety answering point when such a voice over internet protocol  
12 service customer has a place of primary use in the state.

13 (c) "Local exchange company" has the same meaning as in  
14 RCW 80.04.010.

15 (d) "Place of primary use" means the street address  
16 representative of where the subscriber's use of the radio access line  
17 or interconnected voice over internet protocol service line occurs,  
18 which must be:

19 (i) The residential street address or primary business street  
20 address of the subscriber; and

21 (ii) In the case of radio access lines, within the licensed  
22 service area of the home service provider.

23 (e) "Prepaid wireless telecommunications service" means a  
24 telecommunications service that provides the right to use mobile  
25 wireless service as well as other nontelecommunications services  
26 including the download of digital products delivered electronically,  
27 content, and ancillary services, which must be paid for in full in  
28 advance and sold in predetermined units or dollars of which the  
29 number declines with use in a known amount.

30 (f) "Private telecommunications system" has the same meaning as  
31 in RCW 80.04.010.

32 (g) "Radio access line" means the telephone number assigned to or  
33 used by a subscriber for two-way local wireless voice service  
34 available to the public for hire from a radio communications service  
35 company. "Radio access lines" includes, but is not limited to, radio-  
36 telephone communications lines used in cellular telephone service,  
37 personal communications services, and network radio access lines, or  
38 their functional and competitive equivalent. Radio access lines do  
39 not include lines that provide access to one-way signaling service,  
40 such as paging service, or to communications channels suitable only



1 for data transmission, or to nonlocal radio access line service, such  
2 as wireless roaming service, or to a private telecommunications  
3 system.

4 (h) "Radio communications service company" means every  
5 corporation, company, association, joint stock, partnership, and  
6 person, their lessees, trustees, or receivers appointed by any court,  
7 and every city or town making available facilities to provide  
8 commercial mobile radio services, as defined by 47 U.S.C. Sec.  
9 332(d)(1), or cellular communications services for hire, sale, and  
10 both facilities-based and nonfacilities-based resellers, and does not  
11 include radio paging providers.

12 (i) "Subscriber" means the retail purchaser of telecommunications  
13 service, a competitive telephone service, or interconnected voice  
14 over internet protocol service.

15 (j) "Switched access line" means the telephone service line which  
16 connects a subscriber's main telephone or equivalent main telephone  
17 to the local exchange company's switching office.

18 NEW SECTION. **Sec. 9.** A new section is added to chapter 28A.650  
19 RCW to read as follows:

20 NEW ACCOUNT. The learning device and technology account is  
21 created in the state treasury. Revenues to the account consist of  
22 revenues collected pursuant to section 3 of this act and transferred  
23 pursuant to section 6 of this act and appropriations, grants, and  
24 donations directed for deposit into the account. Expenditures from  
25 the account must be used for the purposes of this chapter and RCW  
26 43.330.5393. Moneys in the account may be spent only after  
27 appropriation.

28 **Sec. 10.** RCW 80.36.710 and 2022 c 265 s 401 are each amended to  
29 read as follows:

30 (1) The digital equity account is created in the state treasury.  
31 Moneys in the account may be spent only after appropriation.

32 (2) Any amounts appropriated by the legislature to the account,  
33 private contributions, ~~((~~o~~))~~ donations pursuant to section 8 of this  
34 act, and any other source directed to the account, must be deposited  
35 into the account. Funds from sources outside the state, from private  
36 contributions, federal or other sources may be directed to the  
37 specific purposes of the digital equity opportunity program or  
38 digital equity planning grant program.

1 (3) The legislature may appropriate moneys in the account only  
2 for the purposes of:

3 (a) RCW 43.330.412, the digital equity opportunity program; and

4 (b) RCW 43.330.5393, the digital equity planning grant program.

5 NEW SECTION. **Sec. 11.** JOINT LEGISLATIVE AUDIT AND REVIEW  
6 COMMITTEE. (1) By January 1, 2031, the joint legislative audit and  
7 review committee must perform and study and review the effectiveness  
8 of the increased funding provided pursuant to this chapter to the  
9 various digital equity programs, including but not limited to the  
10 digital equity opportunity program created in RCW 43.330.412 and the  
11 digital equity planning grant program established in RCW 43.330.5393.  
12 The study must include:

13 (a) A review of the broad digital equity supports, including the  
14 number of devices distributed, amount spent on devices, the amount  
15 spent on software, the number of technology support full-time  
16 equivalents, the amount spent on technology support full-time  
17 equivalents, and the number of classes offered;

18 (b) A review of the office of the superintendent of public  
19 instruction digital equity programs, including the number of student  
20 devices, the number of instructional devices, the number of  
21 technology support full-time equivalents, the amount spent on student  
22 devices, the amount spent on instructional devices, the amount spent  
23 on technology full-time equivalents, the district's federal reduced-  
24 price lunch program participation percentage; and

25 (c) A review of the state board for community and technical  
26 colleges digital equity program, including credit and noncredit  
27 classes related to adult basic education digital skills, the cost to  
28 the colleges to provide digital skills instruction, the amount spent  
29 on technology support full-time equivalents, the amount spent by  
30 colleges on parking lot Wi-Fi, the amount spent by colleges on device  
31 lending, the costs associated with maintaining devices and services,  
32 the amount of device and software lending for students with  
33 disabilities, and the department of corrections and state board for  
34 community and technical college student devices and software  
35 purchases for incarcerated, or formerly incarcerated, individuals.

36 (2) This section expires January 1, 2032.

1        NEW SECTION.    **Sec. 12.**    Sections 2 through 5, 8, and 11 of this  
2    act constitute a new chapter in Title 82 RCW.

3        NEW SECTION.    **Sec. 13.**    This act takes effect January 1, 2025.

--- **END** ---